

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

11                   BOARDS OF TRUSTEES OF THE  
12                   LOCAL 191 IBEW HEALTH AND  
13                   WELFARE TRUST FUND, et al.,

Plaintiffs,

v.

TKK LLC, et al.,

Defendants.

CASE NO. 2:22-cv-01653-TL

ORDER TO SHOW CAUSE

This is an action brought under the Employee Retirement Income Security Act of 1974 (“ERISA”). The matter comes before the Court *sua sponte*, upon review of the record.

Plaintiffs filed this action on November 18, 2022 (Dkt. No. 1), and amended on November 23, 2022 (Dkt. No. 5). Summons was issued to Defendants on November 21, 2022, and January 9, 2023. Dkt. Nos. 2, 7. To date, no proof of service has been filed, and neither defendant has appeared in this action. Indeed, there has been no activity in the case since January 9.

Federal Rule of Civil Procedure 4(m) states that, “[i]f a defendant is not served within 90 days after the complaint is filed, the court . . . must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” The Court may also dismiss a case for a plaintiff’s failure to prosecute their case. *See Ash v. Cvetkov*, 739 F.2d 493, 496–97 (9th Cir. 1984) (“It is within the inherent power of the court to sua sponte dismiss a case for lack of prosecution.”); *see also* Fed. R. Civ. P. 41(b) (involuntary dismissal where a plaintiff fails to prosecute). More than 90 days have transpired since the Amended Complaint was filed, and no proof of service, no appearance of Defendant, or other indication of service has been filed.

Accordingly, Plaintiff is DIRECTED to SHOW CAUSE, **within fourteen (14) days** of this Order, why this case should not be dismissed without prejudice for failure to serve process or for failure to prosecute.

Dated this 11th day of April 2023.

Tana Lin  
Tana Lin  
United States District Judge